

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 11-15842-mg

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5 In the Matter of:

6
7 LUI J KIM,

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9 Debtor.

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11 - - - - - x

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13 U.S. Bankruptcy Court

14 One Bowling Green

15 New York, New York

16
17 September 10, 2012

18 10:02 AM

19
20 B E F O R E :

21 HON. MARTIN GLENN

22 U.S. BANKRUPTCY JUDGE

23

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1 HEARING re: Adj. Hearing RE: Motion to Approve Sale filed
2 by Andrea Fischer. (CC: Doc. No. 56, 65), Marked Up
3 Documents: 56, 64, 65, 70, 71, 72, 73, 74
4
5 (CC: Doc. No. 76) TRUSTEE'S MOTION FOR ORDER PURSUANT TO 11
6 U.S.C. §§ 105(a) AND 363 AND FED. R. BANKR. P. 2002, AND
7 9014 PURSUANT TO 11 U.S.C. §§ 105(a) AND 363 FED. R. BANKR.
8 P. 2002, 6004, AND 9014 APPROVING SALE OF DEBTORS PROPERTY
9 LOCATED AT 53-09 SKILLMAN AVENUE, WOODSIDE, NEW YORK TO NOOR
10 AHMED YAQUB filed by Robert A. Wolf on behalf of Robert L.
11 Geltzer. Marked Up Documents: 76

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25 Transcribed by: Pamela A. Skaw

1 A P P E A R A N C E S :
2 LAW OFFICES OF ROBERT L. GELTZER
3 Attorney for the Trustee
4 1556 Third Avenue
5 New York, NY 10128
6

7 BY: ROBERT L. GELTZER, ESQ.
8

9 SQUIRE SANDERS LLP
10 Attorney for the Trustee
11 30 Rockefeller Plaza
12 New York, NY 10112
13

14 BY: ANDREA KAHN FISHER, ESQ.
15

16 ALSO PRESENT:
17 MARC YAUVERBAUM
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1 P R O C E E D I N G S

2 THE COURT: Be seated. All right. We're here on
3 Lui J. Kim, Number 11-15842.

4 MR. GELTZER: Good morning, Your Honor. I'm
5 Robert L. Geltzer, the trustee. I'm here with Ms. Fisher
6 from Squire Sanders and Mr. Yaverbaum, our real estate
7 broker.

8 This is, indeed, a duly served and unopposed
9 motion to sell property located at 5209 Skillman Avenue to
10 Noor Ahmed Yaqub. Let me spell that, if I may.

11 Noor, N-O-O-R, Ahmed, A-H-M-E-D, Yaqub, Y-A-Q-U-B, for
12 \$940,000 after an auction that was conducted here in your
13 courtroom when there were six bidders who made 24 bids.

14 In my judgment, this was the highest and the best
15 offer. We'd appreciate it if the Court would approve the
16 sale and afford the buyer the protections of Section 363(m)
17 as well.

18 THE COURT: All right. Anybody else wish to be
19 heard with respect to this proposed sale?

20 All right. This matter was previously on the
21 Court's calendar because an issue of whether service had
22 been fully proper. The hearing was adjourned. Trustee's
23 counsel served -- the Court shortened time that the
24 trustee's counsel served notice; proof of service has been
25 filed. The Court concludes that notice of today's hearing

1 is properly served and of the notice of the proposed sale.

2 Mr. Geltzer, it's unclear to me whether this sale
3 is -- whether there's an objection or not. Mr. Kim had
4 appeared at the last hearing. He is not here today. In any
5 event, for the reasons I'll explain, the Court overrules any
6 objection that Mr. Kim asserts to the proposed sale.

7 The Court previously established bidding
8 procedures for the sale. There was an auction with active
9 bidding which took place, and the Court concludes that the
10 Yaqub bid is the highest and best for the property, that
11 this was an arm's-length transaction, that the sale -- the
12 proposed sale is entitled to a finding under 363(m).

13 The trustee has appropriately established that
14 this is -- the sale involves an appropriate exercise of
15 business judgment by the trustee under 363(b) and the
16 applicable cases in this Circuit, In re: Chateaugay Corp.,
17 973 F.2d 141 (2nd Cir. 1992); In re: Lionel Corp., 722 F.2d
18 1063 (2nd Cir. 1983), and also the Integrated Resources
19 Decision, 147 B.R. 650, (Bankr. Ct. SDNY, 1992).

20 The Court has considered each of the factors that
21 courts have been instructed to consider in deciding whether
22 a sale should take place and whether the sale process,
23 procedures and price are fair, adequate, and in the best
24 interests of debtor's estate. All of those standards have
25 been satisfied and established here.

1 Likewise, the trustee has established the basis
2 for this sale free and clear of all lien claims, encumbrance
3 or interest under Section 363(f) and, as I've already
4 indicated, the sale to this buyer is entitled to protection
5 provided by Section 363(m).

6 Additionally, the Court hereby waives the stay
7 under Rule 6004(h) so the sale can promptly close.

8 No new objections certainly have been filed since
9 the last hearing in this case and, as I said earlier, it's
10 unclear to me whether Mr. Kim continues to object but, in
11 any event, the objection that he previously attempted to
12 assert was not well taken and is overruled, if, in fact,
13 Mr. Kim still objects.

14 So, the sale's approved Mr. Geltzer.

15 MR. GELTZER: We have no further objection.

16 THE COURT: Do we have an order?

17 MS. FISHER: Excuse me, Your Honor?

18 THE COURT: Do I have a disk with the order?

19 MS. FISHER: An order was -- I believe Ms. Chung
20 has an order --

21 THE COURT: Okay.

22 MS. FISHER: -- that was sent to her last week.

23 THE COURT: All right. Thank you very much.

24 MS. FISHER: Thank you, Your Honor.

25 THE COURT: We're adjourned.

1 MR. GELTZER: Thank you, Your Honor.

2 THE COURT: We're in recess until 11 o'clock.

3 (Whereupon these proceedings were concluded at 10:07

4 AM)

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I N D E X

R U L I N G

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Located at 5209 Skillman Avenue,		
Woodside, New York to Noor Ahmed Yaqub		

C E R T I F I C A T I O N

I, Pamela A. Skaw, certify that the foregoing transcript is
a true and accurate record of the proceedings.

Pamela
A Skaw

Digitally signed by Pamela A
Skaw
DN: cn=Pamela A Skaw, o, ou,
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Date: September 14, 2012